

Battle Creek City Planning Commission

Staff report for the December 7, 2011 meeting

To: Planning Commissioners

From: Christine M. Hilton, AICP, Planning Supervisor
Planning and Community Development Department

Subject: Petition S-06-11, a Special Use Permit request for 4720 Beckley Road
Parcel #0980-02-208-0

Summary

A petition from First Pentecostal Church, Rev. Elmer Hess, requesting a Special Use Permit to allow the use and occupancy of 4720 Beckley Road, Parcel #0980-02-208-0, as a church as permitted under the Planning and Zoning Code, Chapter 1290, Section 1290.01(b)(23)

Background/Property Information

The subject site is located on the south side of Beckley Road, between Capital Avenue S.W. and S. Minges Road. The parcel is 5.58 acres in size with 245' of frontage on Beckley Road.





City records indicate that the dwelling on the property was demolished in 2000, and the Ball Joint constructed that same year. An addition was constructed in 2004, making the structure approximately 17,000 s.f. The facility was closed earlier this year due to financial constraints.

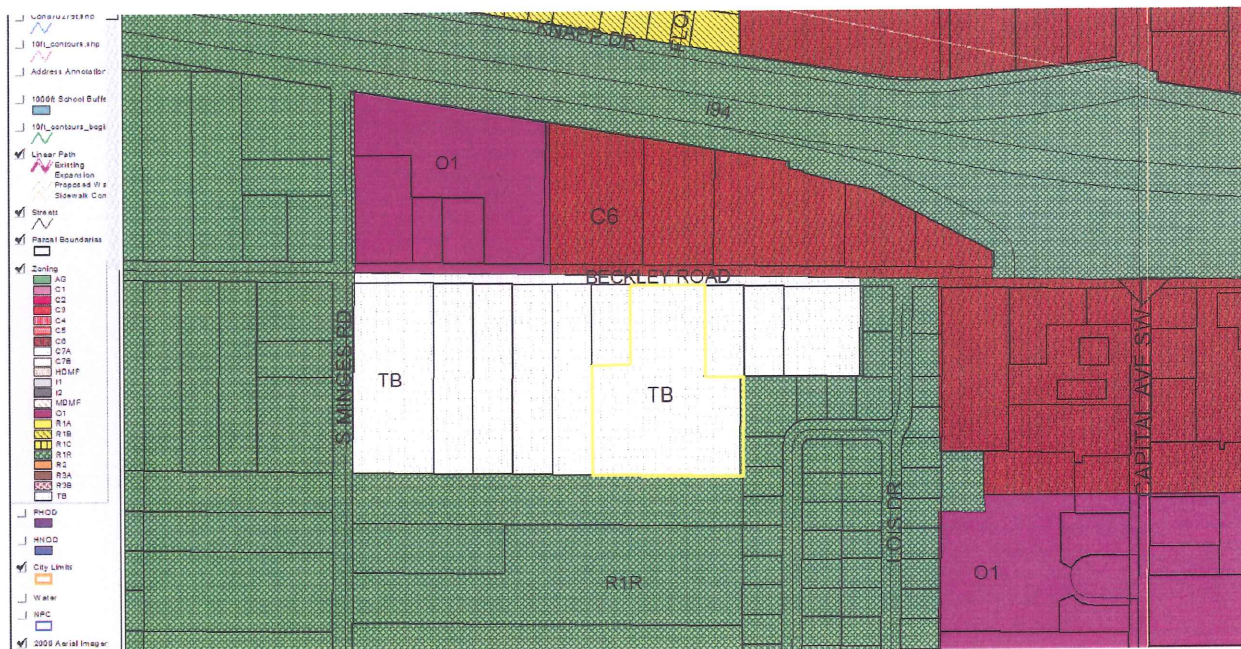
Surrounding Land Uses / Zoning

The south portion of this section of the Beckley Road is zoned TB Transitional Business District. The intent of this district, as outlined in Ch. 1257.02 of the zoning ordinance, is *“to provide for a gradual reduction in the intensity of uses between Commercial and Residential Districts or uses. A TB Transitional Business District shall be so related to the general development patterns and objectives of the Comprehensive Plan as to facilitate the protection of the character of surrounding neighborhoods and to minimize potential threats to the comfort and safety of adjacent residential properties.”*

As this is a relatively new district, having been adopted in 1993, the majority of structures along this corridor were originally constructed for residential purposes. Some of these have been demolished for redevelopment, though there remain today some residential structures in this district, some of which have been converted into commercial businesses. Additionally there are a few properties available for redevelopment as well as a 3.8 acre vacant parcel on the southeast corner of Beckley and S. Minges available for development along the TB corridor.

The north side of Beckley is zoned C-6 Major Highway Interchange District and O-1 Office District. There is an office complex on the property zoned O-1 as well as a church and two vacant properties, and there are three hotels and two restaurants on the properties zoned C-6.

To the south and southeast of the subject property are residential properties zoned AG. The properties directly south front on S. Minges and range from two to eight acres in size. The properties to the southeast are part of an existing single family subdivision averaging a third of an acre in size.



Proposed Scope of Project

The First Pentecostal Church is currently located at 319 Main Street, and has been in the community for over thirty years. A growing congregation has necessitated a larger facility, and they are seeking a special use permit to utilize the former Ball Joint for their facilities.

The applicant is proposing to utilize the property for their Family Worship Center that will include typical church functions including church worship services, ancillary events such as wedding ceremonies or funerals, nursery for use during church activities, and classrooms for Sunday school classes.

There are no building or parking lot additions proposed for the project, though some exterior façade improvements will be made. Attached to the application is a rendering of the exterior façade changes as well as a floor plan.

Applicable Ordinance Provisions

Religious assembly uses are not permitted by right in any particular zoning district, but are permitted by special use permit (except in the C-6 Major Highway Interchange Business District) as provided for in City of Battle Creek Zoning Ordinance, Chapter 1290 Special Land Uses, specifically 1290.01(b)(23): *“Churches when located on a major street as shown on the Major Streets Plan and on a lot or parcel not less than one acre.”*

As the subject property is located on a major street and is over one acre in size it is eligible for consideration for a special use permit for a church.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Enquirer on Tuesday, November 22, 2011 and notices of the public hearing were also sent by regular mail on November 18, 2011 to thirty-four owners and occupants of properties located within 300 feet of the subject parcel. To date, the Planning Department has not received any questions or comments relative to this request.

Neighborhood Outreach

The petitioner attended the October 11, 2011 meeting for Neighborhood Planning Council #9, and their request for a special use permit has been unanimously endorsed by that group. A copy of their approval letter is included with this staff report.

Basis For Determination

As a special use, the Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan as well as on the character and development of the neighborhood. The ordinance and enabling legislation allow the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

The request shall be reviewed using the following standards listed in Chapter 1290.04 Basis for Determination (for Special Use Permits):

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.
- (b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.
- (f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

(g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.

(h) The use will be consistent with the intent and purpose of this Zoning Code.

Another factor in requests for religious assembly uses is the Religious Land Use and Institutionalized Persons Act (RLUIPA), a Federal statute passed in 2000 that is intended to protect individuals, houses of worship, and other religious institutions in zoning and land-use laws. In summary, RLUIPA prohibits zoning laws that substantially burden the religious exercise of churches or other religious assemblies or institutions absent the least restrictive means of furthering a compelling government interest. RLUIPA prohibits zoning and land marking laws that:

1. Treat churches or other religious assemblies or institutions on less than equal terms with nonreligious institutions;
2. Discriminate against any assemblies or institutions on the basis of religion or religious denomination;
3. Totally exclude religious institutions from a jurisdiction; or
4. Unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.

This information has been provided for the Planning Commission's consideration in deliberation of this request because staff believes it should be taken into consideration; however, it is not meant to suggest an approval of this SUP request is required.

Analysis and Recommendation

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. Staff further finds the request consistent with the general standards listed in 1290.04, as outlined herein:

(a) The use will be harmonious with and in accordance with the general objectives of the Master Plan in that the this area is designated as Mixed Use Corridor and would provide clearly defined nodes of commercial activity, appropriately distributed and scaled to serve regional, community, and neighborhood needs (pg. 4-9). While the church is not exactly a commercial use, the addition of a church at this location would add another service for the community at large, both regionally and locally, and would help maintain the viability of the commercial corridor to the east (pg. 4-9).

Additionally, approval of the special use permit will provide a transitory boundary between commercial and residential uses (Pgs. 4-5, 4-11). The Neighborhood Preservation Strategies portion of the master plan (pg. 5-14) considers the area south of the Beckley area a residential neighborhood, with goals to protect the properties from encroachment. The approval of the special use permit will further this goal, as well as to allow for property improvements that will stabilize the surrounding residential neighborhood.

(b) The proposed use will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood as the proposed use is a light intensity use due to the nature of the activities that will

take place and will not be detrimental to surrounding properties, and additionally will complement both the residential properties to the south and the commercial properties to the north and east.

- (c) The use will not be hazardous or disturbing to existing or future neighboring uses as the proposed use is generally passive in nature, with variable hours of operation that generally occur during the daytime and early evening.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole as an existing vacant structure that will become occupied and improvements made to the structure. Additionally, the request will change the use of the building from one that had a detrimental effect to surround properties to one with the potential for positive effects on surrounding properties.
- (e) The use will be adequately served by essential public facilities and services in that public utilities already exist and no additional needs are required for this use.
- (f) There will be no City expenses associated with the maintenance and improvements to the building, and therefore, the use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (g) Because of the nature of the use there will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.
- (h) The use will be consistent with the intent and purpose of this Zoning Code in that the facility will be subject to compliance with all relevant sections of the zoning ordinance and codified ordinances, including noise, noxious vegetation, and property maintenance. Additionally, the request complies with the intent of the TB Transitional Business District in that it is a light intensity use that will provide a transition between the residential uses to the south with the commercial uses to the north.

Therefore, as the request meets the general standards listed in Chapter 1290.04 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-06-11 that would allow an church as discussed herein, on Parcel #0980-02-208-0 with the following conditions:

- a. All necessary approvals and any required permits shall be obtained from the appropriate agencies, including but not limited to Department of Public Works and Inspections Department prior to Certificate of Occupancy.**
- b. The approval of the special use permit is based upon the contents of the submitted application. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.**
- c. Pursuant to Chapter 1232.01 (a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Zoning Administrator or**

his or her agent. Such a certificate shall state that the new occupancy complies with Building and Zoning Codes.

- d. Pursuant to Chapter 1290.02 (e), certificates of occupancy for special uses shall be valid for a period established by the City Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.**

The Planning Commission can add additional conditions to those listed above in the staff recommendation. The Planning Commission may also upon deliberation, choose an alternative action from the following alternatives:

- A1: Postpone the project for specific reasons, with agreement from the applicant;
- A2. Articulate revised rationale of the general standards and/or conditions to recommend to the City Commission Approval OR Denial of the subject application.

Attachments

The following information is attached and made part of this Staff report.

1. Special Use Permit petition Form and Supplemental Information (Petition #S-06-11)

PETITION FOR A SPECIAL USE PERMIT



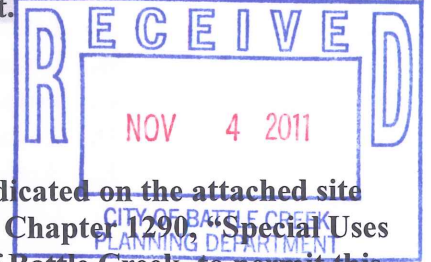
City of Battle Creek, Michigan

Department of Planning and Community Development

Petition No. S-010-11

Please read instruction on reverse before completing this form.

If additional space is required, attach a separate sheet.



The City Commission of the City of Battle Creek, Michigan

Honorable Mayor and City Commissioners:

I / We, the undersigned owner(s) of the property described below and indicated on the attached site plan, do hereby petition for a Special Use Permit under the provisions of Chapter 1290, "Special Uses and Land Development", of the Planning and Zoning Code of the City of Battle Creek, to permit this property to be used exclusively as indicated below.

Legal Description of Property:

4720 Beckley Rd
SUPRS PLAT OF BECKLEY ACRES LOT 7,
EXC N 264 FT THEREOF, ALL OF LOT 8 & 9,
EXC NLY 300 FT OF LOT 9 ((LOT 7, EXC N 264'
ASSESSSED WITH #0980-02-207-0 IN 1983
THRU 2006))

PARCEL
#0980-02-208-0

Present Use of Property:

Ball Joint Sports Facility

Proposed Use of Property:

First Pentecostal Church

Reasons why petitioner feels that a Special Use Permit should be granted:

We will totally renovate the interior of
the building and will use it as a
house of worship. The special use permit
will allow us to help those

Present Zoning Classification:

District:

Property Owner(s)

or Agent

(Check one)

Name

Rev Elmer Hess

Name

Address

FIRST PENTECOSTAL Church
321 MAIN ST. B.C. Mich 49014

Address

Telephone

Fax

269-274-1975

Telephone

Fax

Signature

Rev Elmer Hess

Signature

FOR OFFICE USE ONLY

Date Petition Received:

Nov. 4, 2011

Petition Fee Received:

\$400.00

Received By:

Lena A. Parrish

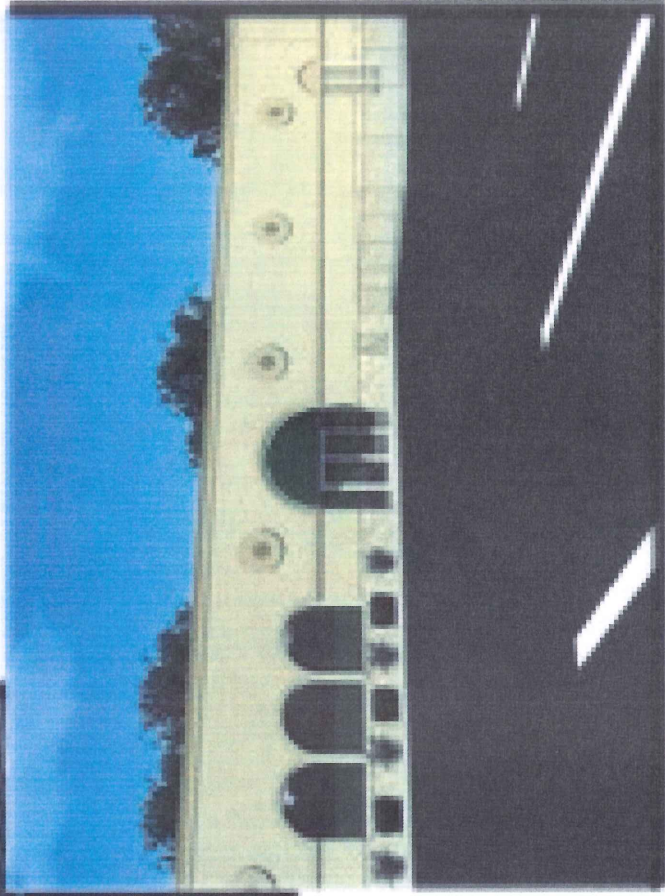
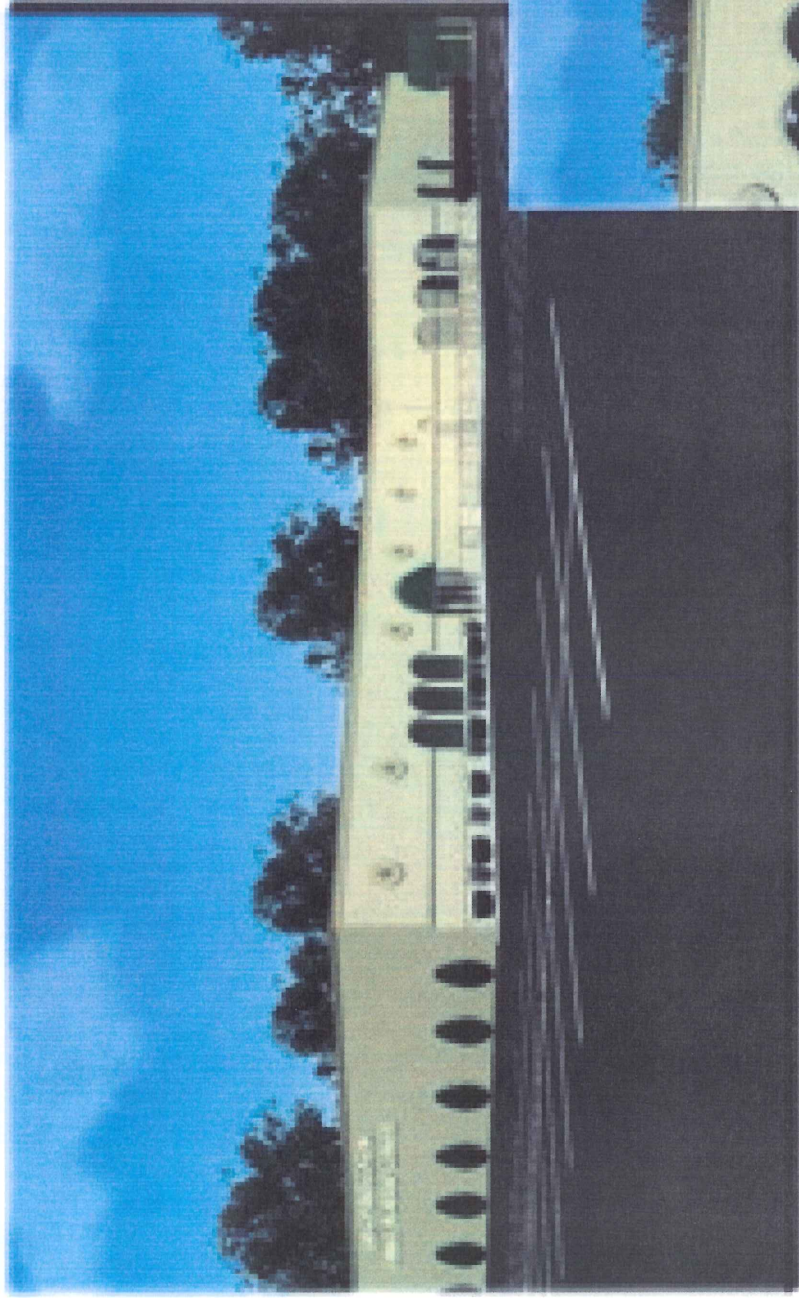
Planning Commission Recommendation:

Approve _____ Deny _____ Date _____

City Commission Action:

Approve _____ Deny _____ Date _____

Resolution No. _____



**The
McKnight
Group**

McKnight & Associates Architects, Inc.

FIRST PENTECOSTAL FAMILY WORSHIP CENTER

ARCHITECT

NOVEMBER 11, 2011

11-11-11

Southwest Rural Neighborhood Planning Council
196 Minges Hills Drive Battle Creek MI 49015

28 Nov 2011

Christine Hilton
Planning Supervisor
City of Battle Creek
77 East Michigan Ave., Suite 204
Battle Creek, MI 49017

Subj: First Pentecostal Church

Dear Ms. Hilton;

The Southwest Rural Planning Council has met with Pastors Elmer Hess Senior and Elmer Hess Junior.

We endorse their plans to acquire the building at 4720 Beckley Road that previously housed The Ball Joint and convert it to a family worship center for First Pentecostal Church.

Regards,

Michael Fatt
Chairman
Southwest Rural NPC